

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

68-0157 (9-06) - 3091078 - EI

MIKKISHA S GREENE
Claimant

APPEAL NO. 19A-UI-02885-S1

**ADMINISTRATIVE LAW JUDGE
DECISION**

REM IOWA COMMUNITY SERVICES INC
Employer

OC: 02/17/19
Claimant: Appellant (1)

Section 96.5-1 - Voluntary Quit

STATEMENT OF THE CASE:

Mikkisha Green (claimant) appealed a representative's March 27, 2019, decision (reference 05) that concluded she was not eligible to receive unemployment insurance benefits because she voluntarily quit work with REM Iowa Community Services (employer). After hearing notices were mailed to the parties' last-known addresses of record, a hearing was scheduled for April 26, 2019, in Des Moines, Iowa. The claimant participated personally. The employer participated by Jamie Henkes, Program Director and Peter Garcia-Rettig, Program Supervisor. The claimant offered and Exhibit A was received into evidence. The employer offered and Exhibit 1 was received into evidence.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on June 3, 2016, as a part-time direct support professional working from 11:00 p.m. to 7:00 a.m. At the end of her employment, she was caring for two self-sufficient brain injured males. The employer allowed her to sleep while the residents were sleeping. The males occasionally needed a steadying hand while entering the shower or walking on a slippery surface but were otherwise ambulatory.

The claimant suffered a non-work-related ankle injury and was absent from work for a period of time. She was released to return to work on January 24, 2019, with a fifteen-pound weight restriction. On February 7, 2019, the employer and claimant met to discuss and complete a Reasonable Accommodation Work Sheet. The parties came up with solutions to accomplishing the claimant's job tasks without violating her restrictions. The claimant asked the employer to return to work during daytime hours. The employer did not have a daytime shift available and it considered the night shift a better fit for the claimant's accommodations. It denied the claimant's request for a change.

In late February 2019, the employer issued the claimant an evaluation. The claimant expressed her concerns about staff not appearing for work on time. She had to collect her children from daycare and prepare them for school. She also expressed concerns about snow not being shoveled.

The claimant worked her last day on February 25, 2019. She left messages for the program supervisor that he did not receive. The claimant quit work because she was under stress and did not like her work environment. She thought having a resident lean on her for stability was the same as lifting more than fifteen pounds. She did not know the program supervisor did not receive her call and she wanted the daytime hours. In addition, she was homeless.

The program supervisor called the claimant repeatedly when she did not appear for work or notify the employer of her absences on February 28, March 1, 7, 8, and 9, 2019. On March 13, 2019, the employer sent the claimant a certified letter at her last known address asking for her to contact the employer. The claimant made no contact. Continued work was available had the claimant not resigned.

REASONING AND CONCLUSIONS OF LAW:

For the reasons that follow the administrative law judge concludes the claimant voluntarily quit work without good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.25(21) provides:

Voluntary quit without good cause. In general, a voluntary quit means discontinuing the employment because the employee no longer desires to remain in the relationship of an employee with the employer from whom the employee has separated. The employer has the burden of proving that the claimant is disqualified for benefits pursuant to Iowa Code section 96.5. However, the claimant has the initial burden to produce evidence that the claimant is not disqualified for benefits in cases involving Iowa Code section 96.5, subsection (1), paragraphs "a" through "i," and subsection 10. The following reasons for a voluntary quit shall be presumed to be without good cause attributable to the employer:

(21) The claimant left because of dissatisfaction with the work environment.

A voluntary leaving of employment requires an intention to terminate the employment relationship accompanied by an overt act of carrying out that intention. *Local Lodge #1426 v. Wilson Trailer*, 289 N.W.2d 608, 612 (Iowa 1980). The claimant's intention to voluntarily leave work was evidenced by her actions. She stopped appearing quit work. When an employee quits work because she is dissatisfied with the work environment, her leaving is without good cause attributable to the employer. The claimant left work because she did not like her work environment. Her leaving was without good cause attributable to the employer. The claimant voluntarily quit without good cause attributable to the employer. Benefits are denied.

DECISION:

The representative's March 27, 2019, decision (reference 05) is affirmed. The claimant voluntarily left work without good cause attributable to the employer. Benefits are withheld until the claimant has worked in and has been paid wages for insured work equal to ten times the claimant's weekly benefit amount provided the claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs